

NOW COMMUNICATIONS, INC.

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February 5, 2003

FILED VIA ECFS

Federal Communications Commission
Attn: Marlene H. Dortch, Secretary
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte – In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338

Dear Ms. Dortch:

On January 28, 2003, I met telephonically with Chris Libertelli, Legal Advisor to Chairman Michael K. Powell. The subject was the triennial review of the unbundling obligations of ILECs. Also present in person on NOW's behalf, as well as on the behalf of the National ALEC Association (NALA), were Carl Tuvinn and James Kuhn of Tuvinn & Associates, a DC-based lobbying and consulting organization. The meeting lasted approximately 25 minutes.

Synopsis of the meeting: NOW conveyed its and NALA's concerns regarding the possible removal of any element of the UNE-P as a method of entry into the local exchange marketplace. NOW and NALA members provide prepaid residential local exchange services on that platform (as well as via total service resale) in order to reach its customer base of credit-impaired consumers, primarily located in densely populated/urban areas.

NOW explained that there is no financial justification or ability for it (and other prepaid residential companies like NOW) to construct or install full facilities, plant, and equipment necessary to serve this small niche market of residential consumers. Further, that venture capital was not available to NOW and NALA members assuming switch deployment was financially justified given the relatively small numbers of applicable customers in each market. The only viable way to reach the credit-impaired residential customer is via the UNE-P. Total Service Resale, while still a compelling method of early stage market entry, does not allow prepaid dialtone carriers to accurately customize the features and plans needed to best serve the credit-impaired customer base.

Removing an element could force NALA members to shop around with various facilities-based CLECs to purchase an element(s) that was removed from the current list of elements comprising the UNE-P. However, at this early state, there is no viable wholesale switching market. NOW expressed its belief that if an element were removed, the ILECs would then seek to immediately increase the cost of that element, which would have to be compared to rates, if offered for that element, by other facilities-based CLECs. That would increase administrative and personnel burdens on small companies.

Lastly, NOW explained how it and NALA members are to be distinguished from traditional CLECs, who are merely look alike competitors to the ILEC competing for the same customer

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base. NOW and NALA members actually serve the customers left behind by ILECs and traditional CLECs, and enhance universal service.

Please feel free to contact me if any additional information is required.

Sincerely,

S/
R. Scott Seab